IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SECOND APPEAL NO. 602 OF 2005

Ramdas Harichandra Deogade vs. Smt. Suman Bhaurao Deogade & Ors.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
AUGUST 04, 2007.

Heard Shri Kalkar, Advocate holding for Shri Belekar, learned counsel for the appellant.

The plaintiff has filed present Second Appeal against the reversing appellate Court judgment. His suit for declaration and possession was decreed by the court below by holding that he was owner of house bearing No.665 situated at village – Gumgaon. The appellate Court has found that the plaintiff claimed to have purchased the property from Smt. Chhotibai wd/o Natthuji Deogade, who is alleged to have sold to him on 31.7.1995. After discussing the entire evidence on record, the appellate Court has found that there was no document produced on record by the

plaintiff to show that she was owner of suit house and it found that the case of present respondent (original defendant) was that the house was owned by Bapu Pancham Deogade, has been established on record by producing tax receipt. As the burden to show that his vendor was owner of suit house was upon present appellant and same has not been discharged, the appellate Court has reversed the judgment of trial Court. The appellate Court has also found that house was not in possession of Chhotibai but was in possession of Bapu and even the trial Court has found that the appellant – plaintiff could not prove that he was placed in possession of suit property.

In these circumstances, it is apparent that the issue involved is one of question of fact only and no substantial question of law arises in the matter. Second Appeal is, therefore, dismissed. No order as to costs.

JUDGE

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